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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,921	07/05/2001	Kevin S. Walters	11331-004	1796
7590	03/17/2004		EXAMINER	
Stephen M. Beney Bereskin & Parr Box 401 40 King Street West Toronto, ON M5H 3Y2 CANADA			HARTMANN, GARY S	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 03/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/897,921	WALTERS, KEVIN S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary Hartmann	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 January 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2,6,7 and 18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,6,7 and 18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 05 July 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright et al. (Transportation Engineering Planning and Design, 1989) in view of the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana. As discussed in the prior Office actions, Wright et al. discuss methods of roadway design. The roadway system in Louisiana includes a first point (intersection of Interstate 12 and causeway bridge, for example); a second point (intersection of Interstates 12 and 55, for example); a body of water suitable for supporting a road (Lake Pontchartrain); a further road (causeway bridge) linking the two points (sections of roadway extending between the bridge over the water and the intersections with the existing roads). The further road is generally parallel over its length to the shoreline of the body of water and tract of land. There is also one existing road (Interstates 12 between causeway bridge and Interstate 55, for example). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the methods discussed by Wright et al. to obtain the system of roadways in Louisiana in order to obtain an efficient plan for design and implementation.

Regarding claim 2, note that the road including the causeway intersects several existing roads between Interstate 12 and Interstate 10.

Regarding claim 6, the causeway is a bridge.

Regarding claim 18, the further road as discussed above is greater in length than the existing road.

3. Claims 1, 2, 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana in view of Wright et al. (Transportation Engineering Planning and Design, 1989). The road system is discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the methods discussed by Wright et al. to obtain the system of roadways in Louisiana in order to obtain an efficient plan for design and implementation.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the road system of Interstates 10, 12, 55 and the causeway bridge across Lake Pontchartrain, Louisiana/Wright et al. (Transportation Engineering Planning and Design, 1989) as applied above, and further in view of Haakonsen (U.S. Patent 5,216,773). Haakonsen teaches a method of installing a floating road. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used this method in order to obtain another bridge, thereby increasing roadway capacity across Lake Pontchartrain.

***Response to Arguments***

5. Applicant's arguments filed 1/20/2004 have been fully considered but they are not persuasive. First, note that the rejection has been modified such that only the part of the causeway bridge across the lake has been treated as the further road. The step of linking includes building the portions of the roadway extending between the over-the-water causeway and the intersections with other roads on land.

The examiner substantially agrees with applicant's statement that the purpose of the Lake Pontchartrain causeway was to shorten commute time; however, there are no claim recitations which prevent this structure from meeting the claim recitations. While not necessary for the present rejection, applicant is directed to the enclosed maps of Glenwood Canyon, Colorado, in which the roadway is a bridge which does not follow the shortest route; rather it meanders along and above the Colorado River.

It appears that applicant is intending for the term "further" to define a length relative to another length; however, there are no relative lengths either claimed or disclosed in the specification. In other words, the term "further" alone does not recite a particular comparison. In order to overcome this rejection, the claims would have to specifically recite which structure was longer than which other structure. No new matter may be added.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Gary Hartmann**  
Primary Examiner  
Art Unit 3671

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